

REMARKS

This responds to the Final Office Action dated April 6, 2005.

No current amendment is made. Claims 1-10, 44 and 48-57 remain pending in this application.

Comments on the Finality of the Office Action

Applicant respectfully submits that the finality of the Office Action is premature because the Office Action cites a reference with an invalid U.S. Patent Number to support a rejection and fails to respond to Applicant's request for clarification of that matter made in the Amendment and Response filed on December 21, 2004, which responds to the Office Action dated September 21, 2004. The Office Action dated April 6, 2005 and the Office Action dated September 21, 2004 both cited "Conley et al USPN 617198". Applicant respectfully submits that "617198" is not a valid U.S. Patent Number and requests a clarification in the next official communication.

In addition, claim 49 is indicated as being allowed but is also objected to in the Office Action. Applicant respectfully requests a clarification in the next official communication.

Applicant respectfully requests reconsideration and withdrawal of the finality of the Office Action dated April 6, 2005.

§102 Rejection of the Claims

Claims 1-4, 7, and 10 were rejected under 35 U.S.C. § 102(b or e) as being anticipated by Hsu et al. (U.S. Patent No. 6,016,442, hereinafter "Hsu") or Conley et al. (believed to be U.S. Patent No. 6,718,198 – see below, hereinafter "Conley").

Clarification Concerning the Conley Reference

The Office Action states that claims 1-4, 7, 10 are rejected as being anticipated by Hsu and "Conley et al USPN 617198." Applicant believes that the Examiner intended to cite Conley et al., U.S. Patent No. 6,718,198, and the following response is prepared accordingly. Applicant respectfully requests a clarification or confirmation in the next official communication.

Claim 1

Applicant respectfully traverses the rejection and submits that the Office Action does not specifically assert how Hsu or Conley anticipates the recited subject matter. The Office Action asserts that each of Hsu and Conley teaches “an implantable device that detects and records arrhythmia information.” However, Applicant is unable to find in the Office Action, among other things, a statement or suggestion on which means of Hsu or Conley anticipates the means for updating automatically an atrial arrhythmia event status periodically throughout the duration of a detected atrial arrhythmia event episode, as recited in claim 1.

For example, the cited portions of Conley state that a memory of an implantable medical device “stores a count for each occurrence of each detected type of arrhythmia” and that a transmitter of the implantable device “transmits each count upon a request”. This is believed to be differentiable from “updating automatically an atrial arrhythmia event status periodically throughout the duration of a detected atrial arrhythmia event episode” and “generating a message indicating the periodically updated arrhythmia event status” as recited in claim 1.

Moreover, Applicant is unable to find in Hsu or Conley, among other things, means for updating automatically an atrial arrhythmia event status periodically throughout the duration of a detected atrial arrhythmia event episode, as recited in claim 1.

Applicant respectfully requests reconsideration and allowance of claim 1.

Claims 2-4, 7, and 10

Applicant respectfully traverses the rejection of claims 2-4, 7, and 10. Claims 2-4, 7, and 10 are dependent on claim 1. Thus, the discussion for claim 1 above is incorporated herein to support the patentability of claims 2-4, 7, and 10.

Applicant respectfully requests reconsideration and allowance of claims 2-4, 7, and 10.

Allowable Subject Matter

Applicant acknowledges the allowance of claims 44, 48-50 and 51-57.

Claims 5-6, 8-9, and 49 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5-6 and 8-9

Claims 5-6 and 8-9 are dependent on claim 1. Applicant believes that the above discussion supporting the patentability of claim 1 has overcome the objection to claims 5-6 and 8-9.

Applicant respectfully requests reconsideration and allowance of claims 5-6 and 8-9.

Claim 49

Claim 49 is among both the allowed claims and the objected claims. Applicant believes that claim 49 is allowable because it is dependent on claim 44, which is allowed. A clarification is respectfully requested in the next official communication.

Applicant respectfully requests reconsideration and allowance of claim 49.



CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6912 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date: 6/6/2005

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 10 day of June, 2005.


Name


Signature